IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 9480 of 2003

And

W.P.M.P.No.12085 of 2003

Between:

Shambulingam s/o late D.S.Pothaiah, aged 60 years, occ: retd DSP (Intelligence), r/o 6-7-293 (21/A), Bansilalpet, Secunderabad.

.... PETITIONER (in both)

AND

1. Prudential Cooperative Bank Ltd., regd under A.P. Mutually Aided Cooperative Societies Act, 1995, R.P. Road Branch, 8-1-381, Rashtrapathi Raod, Secunderabad – 500 003.

2. The Union of India, rep by its Secretary, Ministry of Law, Shahstri Bhavan, R.P. Road, New Delhi.

(Respondent No.2 is impleaded as per Order of the Court dated 17-6-2004 in W.P.M.P.NO.13146 OF 2003)

.....RESPONDENTS (in both)

Writ Petition No.9480 of 2003

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pass an order or orders particularly one in the nature of writ of mandamus by declaring the letter issued by the respondent dated 15-4-2003 vide reference No.PCB/RP/AR/ESI/289/03-04/1465 of the notice under Section 13 (2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, as illegal, bad, arbitrary, against the principles of natural justice

as the same is null and void and not binding on the petitioner in view of the matter is subjudiced before the Cooperative Tribunal in O.P.No.1107 of 2000 and pass such other order or orders as this Hon'ble Court may deem fit in the circumstances of the case.

W.P.M.P.No.12085 of 2003

Petition under Section 151 C.P.C. praying to stay all proceedings of the respondent's letter dated 15-4-2003 vide reference No.PCB/RP/AR/ESI/289/03-04/EM/1465 of the notice under Section 13 (2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, pending the disposal of the main writ petition.

Counsel For the Petitioner: MR.SURESH SHIV SAGAR (in both)

Counsel For the Respondent No.1: Mr S.Ashok Anand Kumar **(**in both)

Counsel for respondent No.2: Mr A.Rajasekhar Reddy, SC for CG (in both)

The Court Made the Following ORDER:

(per Hon'ble Sri Devinder Gupta, The Chief Justice)

In view of the decision of the Hon'ble Supreme Court in Transfer Case (Civil) No.92-95 of 2002, dated 8th April, 2004 [MARDIA CHEMICALS LTD v UNION OF INDIA & ORS], challenge to the provisions of the Securitisation And Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 is not tenable and for that reason relief prayed for in this writ petition cannot be granted. Writ petition is, therefore, dismissed.

W.P.M.P.No.12085 of 2003

In view of the dismissal of the writ petition, interim directions stand vacated and the W.P.M.P. stands disposed of as such.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. Prudential Cooperative Bank Ltd., regd under A.P. Mutually Aided

Cooperative Societies Act, 1995, R.P. Road Branch, 8-1-381, Rashtrapathi Raod, Secunderabad – 500 003.

2. The Secretary, Union of India, Ministry of Law, Shahstri Bhavan, R.P. Road, New Delhi.

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